laches. Rather, the Court observed that "application of the equitable defense of laches in an action at law would be novel indeed," 470 U.S. at 244 n.16—a point the Court reiterated in *City of Sherrill* with respect to damages claims, see 125 S. Ct. at 1494 n.14—and it identified various ways in which recognition of such a defense would be inconsistent with federal law and policy, see *Oneida II*, 470 U.S. at 244-245 n.16; Pet. 14.

The suit that was before the Court in *Oneida II*, moreover, was understood to be a "test case" (see note 2, *supra*) whose disposition would guide the lower courts in their adjudication of similar suits brought by other Tribes. The unmistakable import of the Court's decision was that the passage of time since the wrongs complained of did not provide a basis for dismissal of damages actions alleging illegal acquisitions of tribal lands. The litigation that has since proceeded in reliance on that decision has consumed an extraordinary amount of time and resources. The question whether all such lawsuits were subject to dismissal *ab initio* should be resolved by this Court, not by a divided panel of the court of appeals. That is especially so because the result of the decision below is to preclude any redress for the Cayugas and other New York Indians for grave wrongs committed by the State in clear violation of treaty and statutory provisions adopted by the Nation for the protection of the Indians.

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For the foregoing reasons and those stated in the petition for a writ of certiorari, the petition for a writ of certiorari should be granted.

Respectfully submitted.

PAUL D. CLEMENT
Solicitor General

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